

**47<sup>th</sup> Annual DLA Government Audit Workshop**  
**Summary of Legislation from the 2021 Legislative Session**  
**Prepared by the Department of Legislative Audit**

**The following is a summary of a portion of the enacted legislation. Please review specific changes to South Dakota Codified Laws for actual changes.**

**Government Generally**

**HB 1007 - An Act to revise certain provisions regarding checks or bid bonds for public improvements.**

Amends SDCL 5-18B-3 - Check or bid bond requirement—Waiver by removing the dollar limit (~~\$50,000~~) and referencing it to the limit established pursuant to § 5-18A-14 for a public improvement (\$100,000).

Notwithstanding the provisions of § 5-18B-2, the requirement of a bid bond, certified or cashier's check, cash, or other security may be waived by the purchasing agency if the bid submitted does not exceed ~~fifty thousand dollars~~ the limit established pursuant to § 5-18A-14 for a public improvement.

**HB 1191 - An Act to allow an expedited process for local intergovernmental legal disputes.**

Adds new sections to SDCL 15-6 in order to facilitate the quick and efficient resolution of disputes, whenever two or more local governmental bodies are engaged in a legal dispute, on motion of any party or on its own, the court may order the parties to proceed:

- (1) Under the expedited civil action process set out in §§ 15-6-73 to 15-6-76.1, inclusive, regardless of any amount in controversy; or
- (2) To alternative dispute resolution, other than binding arbitration, on such terms as the court may order.

**Open Meetings**

**SB 142 - An Act to modify the meeting place and notice requirements for county commission meetings.**

Amends SDCL 7-8-14 dealing with meetings of County Commission making it allowable to hold the meeting “at any other suitable location” (remove place of holding court). Allows (or specifies) they can hold regular meetings throughout the year to transact

business. Changes notice requirements of meeting to in accordance with SDCL 1-25-1.1 (removed mailing copy to each commissioner and other requirements).

Removed SDCL 7-8-16 dealing with Open meetings--Location and notice requirements--Joint county-municipal planning sessions--Continuances

### **Municipalities**

#### **HB 1143 - An Act to authorize certain municipalities to offer limited incentives for industrial development.**

Adds new section SDCL 9-12-21 authorizing the governing body of any second or third class municipality that they MAY rebate the municipal property taxes paid by any industry that furthers the municipality's industrial development goals. Any such municipality shall, by ordinance, develop a program that provides for the type of industry that qualifies for the rebate, the length of time the rebate may apply, and the criteria the industry shall meet in order to qualify for the rebate.

#### **SB 138 - An Act to provide flexibility for certain municipal budget provisions.**

Adds new sections SDCL 9-21-34 and 9-21-34.1 to allow flexibility in municipal budget procedures.

SDCL 9-21-34. Municipal appropriation--Deadlines.

A municipality may move the deadline for introducing the annual appropriation or budget, contained in § 9-21-2 and subdivision 9-10-15(5), as applicable, to as late as the first regular meeting of the governing board in November. Each municipality that opts to move the deadlines shall, by ordinance, establish budget hearing and publication deadlines pursuant to § 9-19-7.

SDCL 9-21-34.1. Municipal appropriation--Moved deadline--Certification.

If a municipality opts to move the budget deadlines, the provisions of § 9-21-20 do not apply. On or before October first, after notice and hearing on the requested levies, the municipal finance officer shall certify the tax levies to the county auditor in the county that the municipality is situated in the following form:

For general purposes.....

For interest and debt service fund.....

## Amusement Tax

### SB 39 - An Act to repeal the registration requirements for certain amusement devices.

Amends, adds, and deletes sections from SDCL section 10-58 dealing with registration fees for amusement devices.

#### **10-58-1. Imposition of tax--Rate.**

There is imposed upon owners and operators a special amusement excise tax of four and one-half percent of the gross receipts from the operation of any mechanical or electronic amusement device. The tax imposed by this section is in lieu of the tax imposed pursuant to chapter 10-45.

Created definitions of amusement devices, repealed registration requirement

#### **10-58-3. Exemption from local fees and taxes.**

~~Such owner or operator shall pay an annual registration fee of twelve dollars per machine. Payment of the registration fee allows the machine to be offered to the public or any person until June thirtieth. Each person tendering a registration fee shall indicate whether the machine is being operated within an incorporated municipality and which municipality. The registration fee is in lieu of municipal sales or use tax incurred on account of the sale or use of the machine and is also in lieu of all other~~ No political subdivision of this state may require any permits, licenses, permit fees, or license fees imposed by political subdivisions of the state for the operation of any amusement device. No political subdivision of this state may impose any municipal sales or use tax upon the sale or the operation of any amusement device.

#### **10-58-5. Disposition of tax proceeds.**

The tax generated by this chapter shall must be deposited in the general fund. ~~The registration fees collected by the Department of Revenue shall be paid within thirty days to the municipality in which the machine is located on the date the registration fee is tendered. Registration fees for machines not located within a municipality shall be paid to the state general fund.~~

## **School Districts**

### **HB 1083 - An Act to grant authority to the secretary of education to waive accountability requirements in certain situations.**

Adds new section to SDCL 13-3.

#### **13-3-97. Waivers that affect school accountability.**

If United States Department of Education waivers that affect school accountability calculations are in place due to a nationally declared emergency, the secretary of education may waive compliance with §§ 13-3-55 and 13-3-62 to 13-3-65, inclusive, through December 31, 2024.

### **HB 1066 - An Act to authorize the transfer of wind energy tax revenue from a school district general fund.**

Amends SDCL 13-13-10.1 (6B) by adding the following:

If a wind farm begins producing power for the first time between October first and December thirty-first in a calendar year, any revenues generated for that time period must be retained by the school district and that time period may not be counted against the first five-year period;

And amended SDCL 13-16-26.2 - Transfers from general fund--Prohibited—Exceptions as follows:

Notwithstanding the provisions of § 13-16-26, no school district may transfer any funds, exclusive of federal funds and wind energy tax revenue that is defined in § 13-13-10.1 and apportioned pursuant to § 10-35-21, from the general fund to the capital outlay fund, bond redemption fund or the capital projects fund.

The authority provided by this section for the transfer of wind energy tax revenue is conditioned annually upon the district obtaining, from the Department of Education, verification that the average compensation of teachers in the district, as based on the most recently approved financial report, exceeds the average compensation rate for the 2017 fiscal year.

The transfer of wind energy tax revenue must be made within the ten-year timeframe identified in subdivision 13-13-10.1(6B) for each new wind farm. The maximum amount a school district may transfer on an annual basis is the amount of wind energy tax revenue that is able to be retained by the district and not counted as local effort.

Notwithstanding § 13-16-6, wind energy tax revenue transferred to the capital outlay fund under the authority of this section must remain separately identified and may not thereafter be returned to the general fund.

**SB 49 - An Act to revise property tax levies for school districts and to revise the state aid to general and special education formulas.**

Amends SDCL 10-12-42 for maximum levy amounts for school district funds.

(Maximum levy amounts all went down, target teacher salary went up, and special education disability level amounts went up).

**Counties**

**SB 152 - An Act to authorize counties to issue off-sale liquor licenses.**

Although this deals with Counties, it did repeal SDCL 35-4-6, which basically restricted Counties from issuing off-sale licenses with a municipality or improvement district (with some exceptions).

It did amend SDCL 35-4-11.1 to add ...The number of licenses issued pursuant to subdivision 35-4-2(3) may not exceed two for the first one thousand of population and may not exceed one for each additional fifteen hundred of population or fraction thereof. No county off-sale license may be issued for a retailer located within three miles of the exterior boundary of an incorporated municipality.

**Nonprofits:**

**HB 1079 - An Act to limit certain actions that may be taken by the executive branch relative to nonprofit corporations or charitable trusts.**

And

**SB 103 - An Act to provide for the confidentiality of personal information of persons affiliated with nonprofit corporations.**

Added new sections to SDCL 47-24. Added SDCL 47-24-18 to 23. Adding protections to nonprofit corporations or charitable trusts and requiring confidentiality to information and protecting personal affiliation information. The law does contain an exemption under SDCL 47-24-21; however, keep confidentiality in mind.

47–24–21. Personal affiliation information—Exemptions

The provisions of §§ 47–24–18 to 47–24–20, inclusive, do not apply to:

...

(7) A review of personal affiliation information necessary for purposes of an audit, examination, or investigation of a nonprofit corporation pursuant to chapter 4–11.

**HB 1090 - An Act to modify certain requirements for domestic not-for-profit corporations and to declare an emergency.**

Amends various laws in SDCL 47-22 to allow for changes, meeting, special meetings and votes during any national security, national health, or other declared emergency requiring such action.